

BDP-SPS-TAC

BHARAT
DASHARATH
PANDIT

Digitally signed
by BHARAT
DASHARATH
PANDIT
Date: 2022.04.26
19:35:21 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.214 OF 2021**

Mrs. Surekha Hanumant Kale

....Applicant.

V/s

Shri Rohit Dilip Raut

.... Respondent.

Mr. Ashok M. Misal for the Applicant.

None for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: APRIL 25, 2022

P.C.:-

1] Out of matrimonial discord, Applicant lodged criminal complaint bearing FIR No.177 of 2017 with Khadak Pada Police Station, Kalyan against the non-applicant for the offence punishable under Sections 498-A, 406, 323, 504 of the Indian Penal Code. Counsel for Applicant informs that non-applicant is facing Criminal Case No. 3697 of 2018 pending on the file of Judicial Magistrate, First Class, Kalyan. Applicant initiated other proceedings being Application No.146 of 2017 before the Judicial Magistrate, First Class, Kalyan against the non-applicant under the provisions of Protection of Women from Domestic Violence Act, 2005 (For short "D.V. Act proceedings")

2] As a sequel, non-applicant/husband initiated Hindu Marriage Petition No.134 of 2021 for divorce under section 13(1)(ia) & (b) of the Hindu Marriage Act, 1955 before Civil Judge, Senior Division,

Barshi of which transfer is sought on the ground of hardship.

3] None appears for the non-applicant, though served. Mediator has submitted failure report as the mediation is unsuccessful.

4] Applicant has pressed an issue of hardship and also the ground of likelihood of recording of overlapping findings as it is claimed that D.V. Act proceedings and divorce proceedings are based on similar set of facts and evidence.

5] Contentions in the Applications are not controverted. Apart from the fact that Applicant will suffer hardship if she is made to travel from Kalyan to Barshi as she is not getting any maintenance from the non-applicant, there is every likelihood of recording of overlapping findings on similar set of facts and evidence in D.V. Act proceedings and the proceedings under the Hindu Marriage Act for divorce.

6] As such, Application stands allowed in terms of prayer clause (a). Hindu Marriage Petition No.134 of 2021 pending on the file of Civil Judge, Senior Division, Barshi is directed to be transferred to the Civil Judge, Senior Division, Kalyan, District – Thane.

7] Application is accordingly disposed of.

(NITIN W. SAMBRE, J.)